U.S. Wiretap Right Is Defended

Post 2/22/71

United Press International

Defending the administration's claim of an inherent presidential right to wiretap dissident domestic groups, Deputy Attorney General Richard G. Kleindienst maintains there is no difference between Americans and foreigners if their aim is to destroy the government.

"It would be silly to say that an American citizen, because he is an American, could subvert the government by actions of violence and revolution and be immune from, first, identification, and second, prosecution," he said in an interview.

Kleindienst stressed he was talking, not about free speech, but about "conduct inimicable to our free institutions, conduct that presents a clear and present danger to our form of government, that kind of activity that could be exercised the same as similar conduct committed by agents of a foreign power."

"The whole question of internal security is not a divisible subject matter," Kleindienst said. "You can't divide subversion into two parts—domestic and foreign."

The Justice Department has asked the Sixth Circuit Court of Appeals in Cincinnati Feb. 5 to set aside a ruling by U.S. District Court Judge Damon J. Keith in Detroit in the case of an alleged bombing. Keith held that the Attorney General acting forthe President, has no authority to conduct electronic surveillance in domestic national security cases without court approval.

The Justice Department has appealed a similar ruling by a California federal judge in a Black Panther case. Two other federal courts—in the Chicago Seven case and a case in Kansas—have upheld the government's position. The conflicting opinions virtually assure the case ultimately will reach the Supreme Court, which has yet to rule on the legality of foreign intelligence wiretaps conducted without court orders.